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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

FAREED SHAKIR,

Defendant and Appellant.

B212446

(Los Angeles County  
Super. Ct. No. TA098873)

APPEAL from a judgment of the Superior Court of Los Angeles County, Joel M. Wallenstein, Judge. Dismissed.

Murray A. Rosenberg, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On August 25, 2008, defendant, Fareed Shakir, pled both guilty and no contest to a firearm possession charge and admitted he previously had been convicted of a serious felony. Defendant's probable cause certificate issuance certificate request was denied. The notice of appeal refers to a Penal Code section 1538.5 suppression of evidence motion. But no such motion was ever filed. Because we have a duty to raise issues concerning our jurisdiction on our own motion, we issued an order to show cause and set the matter for oral argument which was waived. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.)

Defendant has failed to fully and timely comply with both Penal Code section 1237.5 and California Rules of Court, rule 8.304(b). (*In re Chavez* (2003) 30 Cal.4th 643, 651; *People v. Mendez* (1999) 19 Cal.4th 1084, 1099; *People v. Way* (2003) 113 Cal.App.4th 733, 736.) Without a probable cause certificate, defendant cannot appeal. (*People v. Kaanehe* (1977) 19 Cal.3d 1, 8; *People v. Ribero* (1971) 4 Cal.3d 55, 61; *People v. West* (1970) 3 Cal.3d 595, 600-601; *People v. Ward* (1967) 66 Cal.2d 571, 574-576.) No Penal Code section 1538.5 suppression of evidence motion was ever litigated. Thus, we do not have jurisdiction to consider defendant's appeal.

The appeal is dismissed.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.